

CANNABIS (MARIJUANA) ISSUES

Sale and Rental of Residential Real Property

● California and Federal Laws In Conflict

● California law allows:

- Adult personal use and possession (1 oz or less or less than 8 grams concentrate)
- Personal cultivation up to 6 indoor or outdoor plants (more if medicinally necessary)

Federal law prohibits all uses

California Law Prohibits



- No outdoor publicly visible growing
- No smoking within 1,000 ft of school/day care/youth center if children present
- No smoking in public if general smoking is prohibited
- No smoking while driving

• Sale of Residential Real Property

- You may sell property where cannabis is cultivated, used or sold
- While usage and possession is illegal under federal law, no federal enforcement if lawful medicinal use under California law
- Federal resources targeted towards business and large-scale operations



Think D.A.D.: Disclose, Attribute, Disclaim



- Disclose “red flags” that indicate property is or will be used for cannabis purposes
- Disclose without giving an opinion on the legality or illegality:
 - Provide source (individual, news article, report, etc.) AND
 - This may be indicative the property was used for cannabis purposes AND
 - I have not verified AND
 - I recommend Buyer contact Seller or Others for additional information
- Use TDS or AVID for disclosure

Rental of Residential Property



- Landlord may prohibit smoking (marijuana or otherwise)
- Tenants with medical need for marijuana do not have the right to smoke on the property
- Landlord may evict a tenant for smoking or growing marijuana if lease prohibits use of marijuana (and likely even if the lease is silent since it is illegal under federal law)

Rental of Residential Property-Cont'd



- Landlord may likely require tenant, even with medicinal need, to pay for reasonable modification to the property (e.g., increased ventilation) as precondition to allowing smoking
- Landlord may not deny lease/rental to tenant with a valid medical marijuana card
- Landlord may only prohibit smoking of marijuana by card holders
- Landlord may not deny rental to a tenant who works for a dispensary
 - California law prohibits discrimination based upon source of income

Additional Resources

Q&A

[Marijuana Issues for REALTORS®](#)

WEBINAR

[Selling Marijuana Property \(March 2020\)](#)

QUICK GUIDES

[Rental of Residential Property](#)

[Sale of Residential Real Property](#)